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Summary of other stakeholders' submissions on Poland*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 18 stakeholders' submissions[1] to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations[2] and cooperation with international human rights mechanisms and bodies[3]

2. Four Freedoms Forum (FFF) recommended that Poland provide a roadmap to ensure the ratification of all UN human rights treaties.[4]

3. Amnesty International (AI) recommended that Poland ratify ICPPED.[5] Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej) (SIP) recommended that Poland ratify ICRMW.[6]

4. SIP recommended that Poland harmonize national legislation with the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence.[7]

* The present document was not edited before being sent to United Nations translation services.

5. Oceania Human Rights Hawaii (OHR) recommended that Poland report on its implementation of the Sustainable Development Goals when reporting for the UPR 3rd cycle, linking them to international human rights.[8]

B. National human rights framework[9]

6. Joint Submission 5 (JS5), Polish Council of Youth Organizations (PROM) and AI expressed concern about the significant reduction of the budget for the Office of the Human Rights Commissioner (Office of the Commissioner).[10] PROM indicated that the budget cut posed a serious risk of a number of adverse consequences and was against recommendations 90.32, 90.34 and 90.35.[11] JS5 and Joint Submission 6 (JS6) highlighted that the main argument for cutting its budget was the fact that it carried out anti-discrimination tasks, including gender equality and LGBT rights, and that the Commissioner for Human Rights had regularly been attacked by right-wing parties, including the ruling party.[12] The Council of Europe Commissioner for Human Rights (CoE-Commissioner) strongly urged Poland to ensure that the Office of the Commissioner enjoy full independence through adequate resources.[13]

7. JS5 and AI noted the abolition in 2016 of the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance, established in 2013.[14] JS5 was concerned that this decision had been taken in the period when racist and xenophobic acts increased owing to the migration crisis.[15]

8. JS5 continued that the Government Plenipotentiary for Equal Treatment, established under the Equal Treatment Act, and operating within the Chancellery of the Prime Minister, was responsible for realizing the Government's equality policy on different grounds of discrimination. The Act, however, did not provide for Plenipotentiary's resources and separate budget. Moreover, it failed to define the relation between the Plenipotentiary and ministers as well as to create a structure for cooperation between the departments.[16]

9. The Good Group (GG) recommended that Poland create a National Action Plan for Human Rights Education in partnership with students, teachers, college and university faculties and administrators prior to the midterm review for UPR.[17]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross cutting issues

Equality and non-discrimination[18]

10. Joint Submission (JS4) indicated that Poland had not implemented accepted UPR recommendations to strengthen legal and other measures to address bias-motivated crimes[19] and those relating to prompt and effective prosecution of racist and xenophobic hate crimes,[20] while partially implemented 90.50 on decreasing anti-Semitism.[21]

11. AI, Fundacia Trans-Fuzia (TF), JS5, and the European Commission against Racism and Intolerance of the Council of Europe (CoE-ECRI) expressed concern that LGBTI persons and persons with disabilities had not been awarded greater protection in Poland's anti-discrimination law.[22]

12. JS5 indicated that the Equal Treatment Act lacked holistic approach to the issue of discrimination and did not treat all marginalised groups equally. This resulted in hierarchy of protection, where the least protected grounds were sexual orientation, age, disability and religion.[23] Prohibition of discrimination based on sexual orientation had been implemented

only in relation to the Labour Code, and to a limited extent, to the Equal Treatment Act. However, provisions included in the Act covered only the area of employment, excluding other areas, such as health care, education and access to goods and services. The Polish authorities still had not implemented any provisions prohibiting discrimination based on gender identity.[24]

13. AI stated that the Criminal Code specifically provided for the investigation and prosecution of hate crimes motivated by race, ethnicity, nationality, religion and political affiliation. However, it did not establish that age, disability, gender, gender identity and expression, sexual orientation, and social or economic status were grounds to investigate and prosecute hate crimes.[25] JS4, JS5, JS6, TF and CoE-ECRI raised similar concerns.[26]

14. JS4 indicated that, while the Criminal Code included specific reference to aggravating factors leading to the imposition of higher penalties for certain criminal offences, they did not include bias motivation as such.[27]

15. JS4 continued that the Government had not attempted to prepare a draft amendment aimed at expanding the catalogue of protected categories in the hate crime and hate speech provisions.[28] According to JS4, the new Minister of Justice declared that he saw no need to introduce any changes in this area to the Criminal Code. JS4 considered this a regressive action in breach of the accepted UPR recommendations.[29]

16. CoE-ECRI expressed concern about homophobic statements in political discourse, hate speech on the Internet against the Muslim community, and the existence of nationalist groups whose numbers were constantly increasing, and racism at sports events.[30]

17. According to JS4, reasons of under-reporting of hate crime included low confidence in police, lack of knowledge of what constituted hate crime and reporting mechanisms, language and cultural barriers, as well as fear of homophobic reaction from the police.[31]

18. Concerning the collection of data on and monitoring of hate crime and hate speech, JS4 stated that the system was fairly capable of capturing recorded incidents motivated by racism and xenophobia (bias motivations included in the Criminal Code), however, when it came to biases which were not mentioned in the Criminal Code, primarily sexual orientation, gender identity and disability, the numbers captured were still negligible.[32]

19. JS4 noted that there were no public funds aimed at providing legal and psychological support for victims of hate crimes. The Victim Support Fund, managed by the Ministry of Justice, did not address specific needs of victims of hate crimes.[33]

20. Concerning recommendation 90.61 on the finalization of the action plan to combat acts of racism and xenophobia, JS4 indicated that it had been implemented partially until 2016, when the Prime Minister dissolved the Council, which marked the start of a regressive action in hate crime policy and practice.[34]

21. Concerning recommendation 90.67 on guaranteeing the full enjoyment of the rights of the LGBT community, TF indicated that its implementation was a subject of debate, although it had been said to be "in the course of implementation".[35]

22. JS4 noted that Poland had not implemented recommendations 90.66, 90.68 and 90.94 on hate crimes against LGBT persons.[36]

23. On recommendations 90.68 and 90.71, JS6 stated that LGBTI persons did not receive the full protection of the State for their enjoyment of freedom of association.[37] A refusal to officially acknowledge attacks against them left LGBTI persons and other minority groups without adequate protection.[38] AI noted that, in February and March 2016, the offices of two major LGBTI organizations in Warsaw, Campaign against Homophobia and Lambda, were attacked.[39]

24. As for recommendation 90.70, TF stressed that transgender persons had still not been included in the anti-discrimination law.[40] For recommendation 90.71, TF welcomed the introduction of partial funding of hormone in 2015 by the Ministry of Health. However, TF regretted a 2016 draft policy on diplomas and certificates of higher education, which required transgender people, who had received legal gender recognition, to return the original diploma and all of its official copies, in order to have a new diploma and certificate issued.[41]

25. Concerning recommendation 90.94, TF noted an elevated interest of law enforcement in training on transgender issues between 2011 and 2014, however, according to TF, such an interest decreased significantly in late 2015 and throughout 2016.[42]

26. Campaign against Homophobia (KPH) and JS5 stated that there were no policies and standards ensuring equal treatment and safety of LGBTI persons in schools. Many schools denied the existence of LGBTI students, who experienced homophobic behavior, not only from other students but also from teachers, educators, and especially priests and nuns conducting religion lessons.[43] CoE-ECRI recommended inclusion in the curricula of all branches of education a programme for raising awareness about, and combating, discrimination towards LGBT persons.[44]

Human rights and counter-terrorism[45]

27. AI stated that a new Counterterrorism Law, enacted in June 2016, consolidated extensive powers, including enhanced surveillance capacity, in the hands of the Internal Security Agency (ISA), with no independent oversight mechanism to prevent abuse and ensure accountability. Terrorism-related crimes and incidents were broadly and imprecisely defined in the Law and the accompanying Regulation.[46] JS6 expressed similar concern[47] and stated that, under the Law, the head of ISA was allowed to block any website without notification or justification, and without first obtaining a court order to do so.[48] Reporters Without Borders International (RSF-RWB) noted that, under the Law, journalists could be put under surveillance without their knowledge. This seriously threatened their ability to protect the confidentiality of their sources.[49]

28. According to AI, foreigners were particular targets of this new Law, which allowed for their covert surveillance, including through wire-tapping, monitoring of electronic communications, telecommunication networks and devices. These measures could be employed if there was a "fear" that the person might be involved in terrorism-related activities. AI expressed concern that singling out foreign nationals in this manner was discriminatory and could lead to racial and ethnic profiling.[50]

29. JS5 stated that the Law introduced a catalogue of terroristic behaviors that had to be monitored by the secret service, which included information about Islamic universities/schools in Poland, visits of Islamic clerics in prisons and grant-making to Islamic organizations or communities abroad. According to JS5, some of the Law's provisions were based only on anti-Islamic and anti-Muslim prejudice.[51] JS6 noted that the regulations accompanying the Law included multiple references to 'Muslim' or 'Islamic' groups or institutions whose actions could *prima facie* raise the prospect of someone associated with those groups being detained for 14 days without having to appear before a judge.[52]

30. In 2015, in Al Nashiri v. Poland and Husayn (Abu Zubaydah) v. Poland, the European Court of Human Rights (ECtHR) found the complicity of Poland in enabling a third country in 2002 to secretly detain, torture and ill-treat the applicants in a detention facility in Stare Kiejkuty and transfer them from its territory in 2003, despite the existence of a real risk that they would be subjected to human rights violations. As regards the

domestic investigation, ECtHR remained concerned that concrete results had still not been achieved and urged Poland to ensure its completion without delay.[53]

2. Civil and Political Rights

Right to life, liberty and security of the person[54]

31. ADF International recommended that Poland continue its efforts to protect the right to life of the unborn.[55]

32. After its visit to Poland in June 2013, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE-CPT) called upon Poland to pursue rigorously its efforts to combat ill-treatment by police officers.[56]

33. CoE-CPT called upon Poland to redouble its efforts to combat prison overcrowding by adopting policies designed to limit or modulate the number of persons sent to prison. It also called upon Poland to revise as soon as possible the norms fixed by legislation for living space per prisoner so that, in all penitentiary establishments, there would be at least 4 m^2 per inmate in multi-occupancy cells and at least 6 m^2 in single cells.[57]

34. Joint Submission 1 (JS1) recommended that, in line with CAT, Poland establish an effective system for identification of vulnerable persons, including torture victims, to prevent their detention.[58]

35. As regards the so-called "dangerous" ("N" status) prisoners, CoE-CPT welcomed the continued reduction in the number of such prisoners in the recent years. Nevertheless, it remained of the view that Poland should refine the procedure for allocating a prisoner to "N" status, with a view to ensuring that only those inmates who posed an on-going high risk, if accommodated in the mainstream of the prison population, are accorded "N" status. It was also concerned about the absence of any changes to the restrictive regime applied to "N" status prisoners. It called upon Poland to fundamentally review that regime and to develop individual plans aimed at providing appropriate mental and physical stimulation to such prisoners.[59]

Administration of justice, including impunity, and the rule of law[60]

36. According to AI, since the Law and Justice party came to power in October 2015, 148 new laws and legislative amendments had been enacted, some laying the legislative groundwork for potential human rights violations. In January 2016, the European Commission initiated a structured dialogue with Poland under the Rule of Law Framework. On 27 July 2016, the European Commission issued a recommendation, giving Poland three months to take steps to remedy the Constitutional Tribunal crisis.[61]

37. The European Union Agency for Fundamental Rights (EU-FRA) noted that it was the first time that the European Commission had applied the Rule of Law Framework, which aimed to address threats to the rule of law that were of a "systemic nature". According to EU-FRA, the First Vice-President of the European Commission had recommended that Poland consult the Council of Europe's European Commission through Democracy Law (Venice Commission) – before enacting the proposed changes to the Constitutional Tribunal Act. Poland requested a legal assessment from the Venice Commission on 23 December 2015, however, concluded the legislative process before receiving its Opinion.[62]

38. AI stated that, since the Law and Justice party had come to power, three far-reaching amendments to the Constitutional Tribunal Act had been enacted, all of which the Constitutional Tribunal found wholly or partially unconstitutional in their judgements of 9 March and 11 August 2016.[63] Joint Submission 2 (JS2) indicated that the amendments to

the Constitutional Tribunal Act had introduced improper interference with the independent functioning of the Constitutional Tribunal, undermining the independence of the judiciary.[64]

39. JS2 stated that the decision of Polish legislature and executive not to implement the Constitutional Tribunal's judgments of 3 and 9 December 2015, regarding the legitimate election of the three Constitutional Tribunal judges by the previous Parliament and the ineffective election of the two judges elected by the present Parliament, undermined the separation of powers doctrine and raised serious concerns in respect of the rule of law.[65] JS1 recommended that Poland swear into the office three judges legally appointed in October 2015; acknowledge all the judgments of the Constitutional Tribunal; and guarantee the respect for the Constitutional Tribunal's jurisprudence in adopting new legislation.[66]

40. JS2 recommended that Poland undertake a review of the Constitutional Tribunal Act to ensure that it respects the independent functioning of the Constitutional Tribunal and enables it to act as an effective guardian of the Constitution and the rights and freedoms enshrined therein.[67] JS2 also recommended that Poland uphold the rule of law and ensure that current and future provisions of law respect the binding nature of Constitutional Tribunal judgments.[68] AI made similar recommendations.[69]

41. In its Opinion adopted in March 2016, the Venice Commission recalled the essential character of checks and balances and stated that, as long as the situation of constitutional crisis related to the Constitutional Tribunal remained unsettled, and as long as the Constitutional Tribunal could not carry out its work in an efficient manner, not only was the rule of law in danger, but so was democracy and human rights. The Opinion urged Poland to publish the Tribunal's judgment, which had found the amendments unconstitutional.[70]

42. CoE-Commissioner expressed concern at the paralysis of the Constitutional Tribunal, which prevented it from playing its crucial role in upholding the human rights of all Polish citizens. He called on Poland to urgently find a way out of the deadlock, following the Opinion of the Venice Commission.[71]

43. JS2 stated that proposed reform to the Constitutional Tribunal Act and to the law on the National Council of the Judiciary (NJC) compromise the principle of judicial security of tenure: the former, by, inter alia, shortening the tenure of the President of the Constitutional Tribunal to three years and terminating the tenure of the incumbent President and Vice-President of the Constitutional Tribunal; the latter by retroactively shortening the tenure of judges appointed to NJC.[72] JS1 recommended that the President should appoint the 10 judges proposed by NJC.[73]

44. AI noted that, under the Law on Prosecution of 28 January 2016, the functions of Prosecutor General and Minister of Justice had been merged. The person, who, as Prosecutor General, could decide on investigations undertaken by prosecutors and intervene in cases, was also a Government Minister, with administrative oversight of courts as Minister of Justice.[74] JS1 recommended that Poland reform the Prosecution Office in order to separate the function of Minister of Justice and Prosecutor General, which would ensure a greater independence of the prosecution authorities.[75]

45. CoE-Commissioner stated that a number of recent amendments to the Code of Criminal Procedure and to the Law on Prosecution might jeopardise the protection of the right to a fair trial in criminal proceedings, the presumption of innocence and the right to defence. Furthermore, he particularly noted that provisions on the use of illegally obtained evidence were not in full conformity with applicable standards.[76]

46. Concerning recommendation 90.93, JS2 welcomed the step taken by the Minister of Justice in 2012 to change the regulation on the right of access of lawyers to classified information, including documents of criminal cases, in order to ensure the right to a fair

trial. JS2 also noted that Poland had executed judgments of ECtHR on access of lawyers to information in lustration cases.[77]

Fundamental freedoms and the right to participate in public and political life[78]

47. JS6 expressed concern that, although Poland supported recommendations 90.100 and 90.101 on freedom of expression, it did not take effective measures to implement them.[79]

48. JS1 also noted that, despite the previous UPR recommendations, defamation still remained criminalized in Article 212 of the Criminal Code and recommended its removal.[80] CoE-Commissioner also encouraged Poland to consider repealing all criminal provisions against defamation and dealing with it through strictly proportionate civil sanctions only.[81]

49. JS6 noted that the introduction and proposal of new media legislation – including the Act on the Council of National Media and the Act on Audiovisual Contribution – had substantially eroded the independence of the public broadcasters.[82]

50. RSF-RWB noted a so-called "small law" (Law amending the Broadcasting Act) that granted the Government full power to appoint and dismiss state TV and radio executives.[83] According to JS6, the legislation removed the incumbent heads of public television and radio stations, Telewizja Polska (TVP) and Polskie Radio (PR), while the Government directly appointed new heads in their place. The new appointees quickly dismissed about 140 journalists, some of whom had worked for as long as 20 years for the public broadcaster.[84] RSF-RWB recommended that Poland repeal or amend the "small law" on media that allowed the treasury minister to appoint state broadcasting executives.[85]

51. RSF-RWB also noted that public TV and radio, as well as the PAP news service, which were state-controlled commercial enterprises, had been transformed into so-called national cultural institutions overseen by the Council of National Media that the Government appointed in July 2016.[86]

52. JS1 recommended that Poland adopt a broad and complex regulation concerning the public media, which would guarantee political independence of public broadcasters, and financial sustainability of the public media.[87]

53. JS2 recommended that Poland ensure that human resources decisions affecting journalists, taken by public media management, are based solely on merit, without any political pressure and influence.[88]

54. JS2 recommended that Poland ensure the functioning of free and independent public radio and television, without any political pressure and influence, based on an institutional architecture compatible with the Constitution and international human rights standards, including respect for the constitutional role of the independent National Council of Radio Broadcasting and Television (KRRiT).[89]

55. JS6 noted that the Government was also exerting economic pressure on the private media critical of its record. There were several reports of large state and semi-state companies withdrawing advertising from private media publications as punitive means to exercise control of their editorial independence.[90]

Prohibition of all forms of slavery[91]

56. The Group of Experts on Action against Trafficking in Human Beings of the Council of Europe (CoE-GRETA) considered that Poland should take further steps to identify persons and groups vulnerable to human trafficking and to focus on prevention among them through targeted social, economic and other initiatives.[92]

57. EU-FRA noted that, for victims of labour exploitation, the conditions for accessing rights and justice were, at best, precarious in Poland.[93] CoE-GRETA called on Poland to strengthen action to combat human trafficking for the purpose of labour exploitation.[94]

58. CoE-GRETA also called on Poland to ensure victims of trafficking can take full advantage of the right to be granted a residence permit. According to CoE-GRETA, further measures should be taken to facilitate access to compensation for victims of trafficking. It also recommended that Poland strengthen the effectiveness of investigations and prosecutions with a view to securing proportionate and dissuasive sanctions.[95]

Right to privacy and family life[96]

59. JS2 noted that the Act of 15 January 2016 (Police Act) lacked the requirement for an independent body to determine the conditions under which an individual's communications data could be captured and monitored.[97] The Act also did not protect against the surveillance or interception of privileged communications between a lawyer and his or her client.[98] AI raised similar concern.[99]

60. In its Opinion adopted in June 2016, the Venice Commission stated that the procedural safeguards and material conditions set in the Police Act for implementing secret surveillance were still insufficient to prevent its excessive use and unjustified interference with the privacy of individuals. The Venice Commission recommended several amendments be adopted in order to improve the Act, for example, to strengthen the proportionality principle, to exclude surveillance of communication protected by lawyer-client privilege.[100]

61. In reference to recommendations 90.69, 90.71, and 90.97, KPH indicated that the adoption of legislation enabling same-sex couples entering into civil union was still necessary. According to KPH, lack of recognition of same sex-couples led to discrimination of both same-sex couples and of trans persons in marriages, who needed to divorce in order to receive legal gender recognition.[101] EU-FRA raised similar concern.[102] According to JS5, Polish citizens who intended to get a civil partnership or marriage with a same-sex partner were often refused the civil status certificates, due to the fact that the Constitution defined marriage as a relationship of a men and a woman.[103]

62. TF stated that a number of trans persons were delaying their legal gender recognition and medical transition in fear of losing parental rights, as the rights of transitioning parents had not been safeguarded by the State. Furthermore, according to TF, there were no existing alternatives to trans persons and their spouses, who wished to remain in a relationship, as Poland did not recognize neither same sex marriage, nor civil partnerships of any kind, hence couples were effectively forced to divorce as part of legal gender recognition.[104]

63. CoE-ECRI recommended legislative changes to guarantee comprehensive protection on grounds of sexual orientation and gender identity, ensuring that the necessary administrative documents can be issued to persons wishing to enter into a same-sex marriage or partnership in another country, and facilitate changes of gender and name.[105]

3 Economic, Social and Cultural Rights

Right to social security[106]

64. In 2015, the European Committee of Social Rights of the Council of Europe (CoE-ECSR) indicated that child benefit for children under the age of five was inadequate, as it was 18 euros, amounting to only 4 per cent of the monthly median equvalised income of 445 euros in 2014 and did not constitute an adequate income supplement.[107]

Right to an adequate standard of living[108]

65. CoE-ECSR stressed that the right to adequate housing required legal protection through adequate procedural safeguards. Occupiers and tenants must have access to affordable and impartial judicial and non-judicial remedies. Pointing out to the lack of such information, it considered that families in Poland did not have access to adequate housing.[109]

Right to health[110]

66. Joint Submission 3 (JS3) stated that Poland had not implemented recommendations 90.96, 90.106, 90.107, 90.108 and 90.109. There were no reproductive health centres, and contraception was not refunded from the state budget.[111] Women without sufficient financial means sought help from unskilled providers who performed abortions in unsafe conditions. This was a serious danger to women's health and life. According to JS3, procedures for legal abortions were incomplete, inconsistent, and arbitrary. They were neither written down nor published.[112]

67. JS3 continued that doctors did not register their refusal to perform an abortion on conscientious objection grounds, and therefore, there was no record in the medical files, although it was their legal obligation. There were very few disciplinary proceedings initiated against these doctors.[113] JS5 stated that there were no measures undertaken to create the system around conscientious objection in which it would be guaranteed that women receive abortion services on time. There were no measures to protect a woman who was denied abortion on this ground and to guarantee that she would receive the service elsewhere.[114]

68. EU-FRA noted that those engaged in education and healthcare had very little knowledge of LGBT issues.[115] LGB identifies were either overlooked in medical school or presented as a mental illness or sexual behaviour disorder.[116] CoE-ECRI raised similar concern.[117] KPH also noted that LGBTI patients faced barriers in access to health services, partially due to the lack of curricula regarding LGBTI issues in medical universities. A large proportion of medical practitioners saw homosexuality as a pathological problem, which required psychiatric treatment.[118]

4 Rights of specific persons or groups

Women[119]

69. CoE-Commissioner noted as problematic the persistence of gender-bias among medical staff, police, prosecutors and judges who dealt with women victims of domestic violence and gender-based violence. He was also concerned about public-run shelters not adapted to the specific needs of women victims of domestic violence, a lack of sustainable public funding for NGO-run shelters for women victims, the continuing gender gap in employment and the prevalence of other forms of discrimination affecting women and the many obstacles to women's access to safe and legal abortion and contraception.[120]

70. CoE-ECSR noted that the regulation of night work did not adequately protect women carrying out night work in industrial employment.[121]

Children[122]

71. CoE-GERTA urged Poland to pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and adopt nation-wide procedures for the identification of child victims of trafficking.[123]

Persons with disabilities[124]

72. JS5 noted that persons with intellectual disabilities or mental health problems might have restricted access to political life, as an intellectual disability or mental illness might be a basis for legal incapacitation, which deprived incapacitated persons of possibility to participate in political life.[125]

73. JS5 indicated that most of the Polish prisons were not architecturally and physically adapted to the needs of persons with disabilities, which might lead to the inhuman and degrading treatment of prisoners with disabilities. They were kept in conditions preventing them from functioning independently. They were not able to intimately use the toilets. There were no facilities for the blind or visually impaired. Furthermore, prison staff did not use the Polish sign language.[126]

Minorities[127]

74. The Committee of Ministers of the Council of Europe (CoE-CM) noted persistent discrimination and difficulties faced by Roma in different sectors, in particular, in employment and education. A disproportionately high number of Roma children received certificates attesting to their disability and were placed in special schools, which indicated the inadequacy of the pre-school education opportunities for Roma children, who entered primary school with little or no knowledge of the Polish language, and which pointed to the deficiencies in the testing methods.[128] CoE-CM called on Poland to ensure that Roma children are fully integrated into mainstream education, review the enrolment policies for special schools, ensure access to pre-school facilities for all Roma children and guarantee that the curriculum in such kindergartens corresponds to the diverse needs and multilingual composition of the groups concerned.[129]

75. CoE-CM also indicated that unemployment figures demonstrated that the various initiatives and schemes had not yielded tangible results and that a significant proportion of Roma remained excluded from the labour market.[130] CoE-CM also called on Poland to take measures to improve the access of Roma to the labour market; develop, in consultation with those concerned, genuine and realistic programmes to lower unemployment among Roma.[131]

76. Concerning regional or minority languages, as a matter of priority, CoE-CM recommended, among others: strengthening efforts to promote awareness and tolerance vis-à-vis regional or minority languages and the cultures they represented; making available education in Belarusian, German, Kashub, Lemko and Ukrainian as a medium of instruction at pre-school, primary and secondary levels; providing updated textbooks and other teaching materials for regional or minority language education and further training of a sufficient number of teachers who were able to teach subjects in these languages; and taking measures to strengthen the offer of broadcasting in all regional or minority languages.[132]

Migrants, refugees and asylum seekers[133]

77. JS1 and SIP noted the detention of minors in closed facilities in relation to their migration status, despite recommendations issued and noted by Poland (90.121). Polish law still allowed for the detention of families with minors for the purposes of both return and asylum proceedings. Unaccompanied minors, when older than 15 years, could be also detained for the purposes of expulsion.[134]

78. SIP also stated that there was no uniform approach across the Border Police units as to the "detention as a last resort" requirement. Nor was there a mechanism in place allowing for the identification of the vulnerable persons, e.g. victims of torture at the border crossing points. The lack of proper identification mechanism enshrined in the law led to

survivors of torture still being detained in detention centers without proper psychological or psychiatric assistance or access to the free-of-charge legal assistance.[135]

79. SIP indicated that, following the previous UPR recommendations (90.27-28), Poland had ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence. However, according to SIP, no steps had been taken to strengthen the protection of migrant women from gender-based violence despite explicit guidelines enshrined in the Convention.[136]

80. SIP continued that migrant workers were facing the highest risk of labour exploitation. The most common violations were: non-payment of salaries; failure to observe health and safety provisions; reduction of salaries; and failure to offer a written contract.[137]

81. SIP further stated that, according to the law on foreigners of 2013, migrant workers were obliged to return to their country of origin, should they even slightly infringe the conditions of their previously declared employment. Furthermore, the Labour Inspection cooperated closely with the border police in detecting any violations of rules governing employment of foreigners as well as detecting undocumented migrant workers. Therefore, migrants had no incentive to report labour exploitation to the relevant bodies.[138]

82. SIP also indicated that, despite numerous previous UPR recommendations, Poland had not improved the situation of irregular migrants as regards healthcare. The most urgent issue was the lack of availability of healthcare for undocumented minors and pregnant women.[139]

83. JS1 and SIP noted that asylum seekers trying to cross the eastern border crossing points were repeatedly refused to do so.[140]

84. SIP noted that, due to the lack of social housing, many refugees became homeless. SIP recommended increased attention to the integration process for refugees, particularly in the area of social housing, vocational training and job placement.[141]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Individual submissions:

ADF International	ADF International, Geneva (Switzerland);
AI	Amnesty International, London (United Kingdom of Great Britain and Northern Ireland);
FFF	Four Freedoms Forum, Kanonbe (United States of America);
GG	The Good Group, Honolulu (United States of America);
KPH	Campaign Against Homophobia (Kampania Przeciw Homofobii), Warsaw (Poland);
OHR	Oceania Human Rights Hawaii, Lailua (United States of America);
PRCM	Polish Council of Youth Organizations (Polska Rada Organizacji Młodzieżowych), Warsaw (Poland);
RSF-RWB	Reporters Without Borders International, Paris (France);
SIP	Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej), Warsaw (Poland);
TF	Fundacja Trans-Fuzja, Warsaw (Poland);

Joint submissions:

JS1	Joint submission 1 submitted by: Helsinki Foundation for Human Rights (Helsińska Fundacja Praw Człowieka), Warsaw (Poland); and The Zbigniew Holda Association ("PHA"), Warsaw (Poland);
JS2	Joint submission 2 submitted by: International Bar Association's Human Rights Institute, London (United Kingdom of Great Britain and Northern Ireland); The Polish Bar of Legal Advisers, Warsaw (Poland); and The Polish Bar Council, Warsaw (Poland);
JS3	Joint submission 3 submitted by: Federation for Women and Family Planning Poland, Warsaw (Poland) and The Sexual Rights Initiative consisting of Akahata, Action Canada for Sexual Health and Rights, Creating Resources for Empowerment and Action CREA, the Federation for Women and Family Planning, and the Coalition of African Lesbians and Egyptian Initiative for Personal Rights;
JS4	Joint submission 4 submitted by: Lambda Warsaw (Stowarzyszenie Lambda Warszawa, Warsaw (Poland); Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej), Warsaw (Poland); and The Diversity Workshop (Stowarzyszenie Pracownia Różnorodności), Warsaw (Poland);
JS5	Joint submission 5 submitted by: The Polish Coalition for Equal Opportunities consisting of Polish Society of Anti-Discrimination Law, Warsaw (Poland); Anteris Fundacja Pomocy Prawnej; Centrum Wsparcia Imigrantów i Imigrantek; Federacja na rzecz Kobiet i Planowania Rodziny; FORUM 50+; Forum Żydów Polskich; Fundacja "PHAN BDE"; Fundacja "Pies Przewodnik"; Fundacja Autonomia; Fundacja Bez Dyskryminacji; Fundacja Centrum Praw Kobiet; Fundacja eFkropka; Fundacja Europejskie Centrum Równości; Fundacja Feministyka; Fundacja Generacja; Fundacja im. Izabeli Jarugi - Nowackiej; Fundacja Inicjatyw Społecznych "Się Zrobi"; Fundacja Just Better; Fundacja Klinika Rozwoju; Fundacja Kultury Bez Granic; Fundacja MaMa; Fundacja My Pacjenci; Fundacja na Rzecz Różnorodności Polistrefa; Fundacja na Rzecz Równości i Emancypacji STER; Fundacja Nasza Przestrzeń; Fundacja Przestrzeń Kobiet; Fundacja Równości; Fundacja Trans-Fuzja; Fundacja TUS; Fundacja Wiedza Lokalna; Fundacja Wolontariat Równości; Fundacja Rodzić po Ludzku; Fundacja Strefa Kobiet; Fundacji Aktywności Lokalnej; Helsińska Fundacja Praw Człowieka; Instytut Podkarpacki; Kampania Przeciw Homofobii; Koalicja Karat; Lambda Bydgoszcz; Lambda Warszawa; Polski Instytut Praw Człowieka i Biznesu; Polskie Forum Osób Niepełnosprawnych; Stowarzyszenia Romów w Polsce; Stowarzyszenie "W stronę Dziewcząt"; Stowarzyszenie Aktywne Kobiety; Stowarzyszenie Dni Równości i Tolerancji; Stowarzyszenie Projekt: Polska; Stowarzyszenie Homo Faber; Stowarzyszenie Inicjatyw Niezależnych

	MIKUSZEWO, Stowarzyszenie Inicjatyw Kobiecych, Stowarzyszenie Interwencji Prawnej, Stowarzyszenie Kobiet Kosmala, Stowarzyszenie Milosci Nie Wyklucza, Stowarzyszenie na Rzecz Kobiet "Victoria", Stowarzyszenie Na Rzecz Lesbijek, Gejow, Osob Biseksualnych, Osob Transplciowych oraz Osob Queer "Pracownia Roznorodnosci", Stowarzyszenie na Rzecz Rozwoju Spoleczenstwa Obywatelskiego PRO HUMANUM, Stowarzyszenie Naukowe Psychologia i Seksuologia LGBT, Stowarzyszenie Nigdy Wiecej, Stowarzyszenie Otwarte Forum, Stowarzyszenie przeciw Antysemityzmowi i Rasizmowi „Otwarta Rzeczpospolita", Towarzystwo Edukacji Antydyskryminacyjnej, Towarzystwo Przyjaciol Szalonego Wiolczyka, Związek Nauczycielstwa Polskiego, Zydowskie Stowarzyszenie Czulent.
JS6	Joint submission 6 submitted by: CIVICUS: World Alliance for Citizen Participation, Geneva (Switzerland); and Committee for Defence of Democracy (KOD), Warsaw (Poland).

Regional intergovernmental organizations:

CoE	The Council of Europe, Strasbourg (France):
	• CoE-Commissioner: Report by Nils Muiznieks, Commissioner for Human rights of the Council of Europe, Following his visit to Poland from 9 to 12 February 2016.
	• CoE-CPT: European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report on the visit to Poland, 5-17 June 2013.
	• CoE-ECRI: European Commission against Racism and Intolerance, Report on Poland (fifth monitoring cycle) adopted on 20 March 2015/published on 9 June 2015.
	• CoE-ESCR: European Committee of Social Rights 2015 conclusions regarding thematic group 4 "Children, families, migrants", articles and 16 of the European Social Charter.
	• CoE-GRETA: Group of Experts on Action against Trafficking in Human Beings, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Poland, First evaluation round, 6 March 2013.
	• CoE-CM: Committee of Ministers, Resolution CM/Re CMN (2015).
EU FRA	European Union Agency for Fundamental Rights, Vienna (Austria).

[1] The following abbreviations are used in UPR documents:

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
LGBT	lesbian, gay, bisexual and transgender
LGBTI	lesbian, gay, bisexual , transgender and intersex.

[2] For relevant recommendations, see A/HRC/21/14, paras. 90.1, 90.3, 90.4, 90.5, 90.6, 90.7, 90.8, 90.9, 90.10, 90.11, 90.12, 90.13, 90.15, 90.19, 90.20, 90.22, 90.23, 90.24, 90.25, 90.27, and 90.28.

[3] PPI, p. 2.

[4] AI, p. 8.

[5] SIP, p. 3.

[6] SIP, p. 2.

[7] CSIR, p. 2.

[8] For relevant recommendations, see A/HRC/21/14, paras. 90.32, 90.33, 90.34, 90.35, and 90.36.

[9] JS5, p. 3. / AI, p. 1. / PROM, pp. 1-2.

[10] PROM, pp. 1-2. / See A/HRC/21/14, paras. 90.32 (Morocco), 90.34 (Spain) and 90.35 (Australia).

[11] JS5, p. 3. / JS6, p. 6.

[12] CoE-Commissioner, para. 31. See also CoE, p. 4.

[13] AI, p. 1. / JS5, p. 5.

[14] JS5, p. 5.

[15] JS5, p. 3.

[67] Gil, p. 2.
[68] For relevant recommendations, see A/HRC/21/14, paras. 90.60, 90.61, 90.66, 90.67, 90.68, 90.69, 90.70, 90.72, 90.73, 90.74, 90.75, 90.76, 90.77, 90.78, 90.79, 90.80, 90.81, 90.82, 90.83, 90.84, 90.85, 90.86, 90.87, 90.88, 90.89, 90.90, 90.91, and 90.94.
[69] JS4, para. 6.
[70] JS4, para. 17.
[71] JS4, para. 28. / See A/HRC/21/14, para. 90.50 (United States of America).
[72] AI, p. 2. / TF, para. 12. / CoE, p. 7. / JS5, p. 4.
[73] JS5, p. 4.
[74] JS5, p. 5.
[75] AI, p. 6.
[76] JS4, para. 4. / JS5, p. 6. / JS6, paras.3.10 – 11. / TF, para. 12. / CoE-ECRI, paras. 3-14. See also CoE, p.6.
[77] JS4, para. 26.
[78] JS4, para. 8.
[79] JS4, para. 12.
[80] CoE-ECRI, paras. 27-30. See also CoE, p. 6.
[81] JS4, para. 30.
[82] JS4, para. 38.
[83] JS4, paras.42 and 44.
[84] JS4, para. 49. / See A/HRC/21/14, para.90.61 (Indonesia).
[85] TF, para. 15. / See A/HRC/21/14, para.90.67 (Spain).
[86] JS4, paras. 6 and 28. / See A/HRC/21/14, paras. 90.66 (Slovenia), 90.68 (United Kingdom of Great Britain and Northern Ireland) and 90.94 (United States of America).
[87] JS6, para. 2.2. / See A/HRC/21/14, paras. 68 (United Kingdom of Great Britain and Northern Ireland) and 90.71 (Brazil).
[88] JS6, para.2.3.
[89] AI, p. 6.
[90] TF, para. 17. / See A/HRC/21/14, para. 90.70 (Austria).
[91] TF, para. 18./ See A/HRC/21/14, para. 90.71 (Brazil).
[92] TF, para. 18. / See A/HRC/21/14, para. 90.94 (United States of America).
[93] KPH, p.4. / JS5, p. 7.
[94] CoE-ECRI, recommendation, para.17. See also CoE, p. 7.
[95] For relevant recommendations, see A/HRC/21/14, paras. 90.122, 90.123, and 90.124.
[96] AI, p. 4.
[97] JS6, para.3.8.
[98] JS6, para.3.7.
[99] RSF-RWB, p. 2.
[100] AI, p. 5.
[101] JS5, p. 5.
[102] JS6, p.5.
[103] CoE, pp. 10-10.
[104] For relevant recommendations, see A/HRC/21/14, paras. 90.58, 90.72, 90.74, 90.75, 90.76, 90.77, 90.95 and 90.96.
[105] ADF International, pp. 1 and 5.
[106] CoE-CPT, recommendation, p. 53. See also CoE, p. 2.
[107] CoE-CPT, recommendation, p. 57. See also CoE, p. 2.
[108] JS1, p. 11.
[109] CoE-CPT, recommendation, p. 60. See also CoE, p. 3.
[110] For relevant recommendations, see A/HRC/21/14, paras. 90.38, 90.87, 90.88, 90.89, 90.90, and 90.93.
[111] AI, p. 2.
[112] EU-FRA, p. 5. See also Fundamental Rights Report 2016 – Annual Report 2016, p. 162.
[113] AI, p. 3.
[114] JS2, para. 4.28.
[115] JS2, para. 4.29.
[116] JS1, p. 5.

[87] JS2, p. 10.
[88] JS2, p. 10.
[89] AI, p. 6.
[90] CoE, p. 10.
[91] CoE-Commissioner, para. 43. See also CoE, pp 3-4.
[92] JS2, para. 4.30.
[93] JS1, p. 8.
[94] AI, p. 7.
[95] JS1, p. 8.
[96] CoE-Commissioner, para. 92. See also CoE, p. 4.
[97] JS2, p. 16. / See A/HRC/21/14, para. 90.93 (Uzbekistan).
[98] For relevant recommendations, see A/HRC/21/14, paras. 90.100 and 90.101.
[99] JS6, pp 5-6. / See A/HRC/21/14, paras. 90.100 (Norway) and 90.101(Holy See).
[100] JS1, p. 10.
[101] CoE-Commissioner, p. 2. See also CoE, p. 4.
[102] JS6, para.3.4.
[103] RNI-RWB, p. 1.
[104] JS6, para.3.5.
[105] RNI-RWB, p. 2.
[106] RNI-RWB, p. 2.
[107] JS1, p. 10.
[108] JS2, p. 16.
[109] JS2, p.16.
[110] JS6, para.3.13.
[111] For relevant recommendations, see A/HRC/21/14, para. 90.82.
[112] CoE-GRETA, proposals, para. 12. See also CoE, p. 10.
[113] EU-FRA, p. 9.
[114] CoE-GRETA, proposals, para. 2. See also CoE, p. 10.
[115] CoE-GRETA, proposals, paras. 2 and 18. CoE, p. 10.
[116] For relevant recommendations, see A/HRC/21/14, paras.90.67, 90.69, 90.71, and 90.97.
[117] JS2, para. 5.11.
[118] JS2, para. 5.13.
[119] AI, p. 5.
[120] CoE, p. 10.
[121] AJPH, p. 2. / See A/HRC/21/14, paras. 90.69 (Australia), 90.71 (Brazil) and 90.101 (Holy See).
[122] EU-FRA, p. 13.
[123] AJPH, p. 2. / JS5, p. 6.
[124] TF, p. 2.
[125] CoE-ECRI, p. 10 and para. 93. See also CoE, p. 7.
[126] For relevant recommendations, see A/HRC/21/14, paras. 90.29, 90.59, 90.113, and 90.115.
[127] CoE, p. 17. See also the 2015 conclusions regarding thematic group "Children, families, migrants", available on European Social Charter Database – HUDOC Charter.
[128] For relevant recommendations, see A/HRC/21/14, paras. 90.59, 90.113, 90.114, and 90.115.
[129] CoE, p. 17. See also the 2015 conclusions regarding thematic group "Children, families, migrants", available on European Social Charter Database – HUDOC Charter.
[130] For relevant recommendations, see A/HRC/21/14, paras. 90.67, 90.71, 90.96, 90.106, 90.107, 90.108, 90.109, and 90.110.
[131] JS3, para. 12. / See A/HRC/21/14, paras. 90.96 (Australia), 90.106 (Norway), 90.107 (Slovenia), and 90.108 (Slovenia) and 90.109 (Sweden).
[132] JS3, paras. 5-6.
[133] JS3, paras. 7-9.
[134] JS5, p. 9.
[135] EU-FRA, p. 12.
[136] EU-FRA, p. 13.
[137] CoE-ECRI, p. 10. See also CoE, p. 6.
[138] AJPH, pp.3-4.

[119] For relevant recommendations, see A/HRC/21/14, paras. 90.37, 90.43, 90.78, 90.79, 90.80, and 90.81.
[120] CoE-Commissioner, p. 2. See also CoE, p. 4.
[121] CoE, p.17. See also the 2015 conclusions regarding thematic group "Children, families, migrants", available in European Social Charter Database – HUDOC Charter.
[122] For relevant recommendations, see A/HRC/21/14, paras. 90.83, 90.84, 90.85, and 90.86.
[123] CoE-GRETA, para. 148. See also CoE, p. 10.
[124] For relevant recommendations, see A/HRC/21/14, para. 90.91.
[125] JS5, p. 8.
[126] JS5, p. 9.
[127] For relevant recommendations, see A/HRC/21/14, paras. 90.111, 90.112, 90.113, 90.114, 90.115, 90.116, and 90.117.
[128] Resolution CM/Re CMN (2015)3, 1 b).
[129] Resolution CM/Re CMN (2015)3, 2.
[130] Resolution CM/Re CMN (2015)3, 1 b).
[131] Resolution CM/Re CMN (2015)3, 2.
[132] CoE, p. 9.
[133] For relevant recommendations, see A/HRC/21/14, paras.90.39, 90.51, 90.118, and 90.121.
[134] JS1, p. 10. / SIP, p. 4. / See A/HRC/21/14, para. 90.121 (Belarus).
[135] SIP, p. 5.
[136] SIP, p. 2. / See A/HRC/21/14, paras. 90. 27 (Norway) and 90.28 (Austria).
[137] SIP, p. 3.
[138] SIP, p. 3.
[139] SIP, p. 4.
[140] JS1, p. 11. / SIP, p. 6.
[141] SIP, p. 6.